# IN THE UNITED STATES DISTRICT COURT
# FOR THE NORTHERN DISTRICT OF OHIO
# EASTERN DIVISON

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| Roddy Prophet, | ) | CASE NO: 1:17 CV 902 |
| Plaintiff, | ) | JUDGE |
| v. | ) | **COMPLAINT** |
| Cuyahoga County Board of Commissioners, | ) | |
| Ken Mills, in his official and individual capacities as Regional Director of Corrections for the Cuyahoga County Sheriff's Department, | ) | |
| Ronald Shobert, in his official and individual capacities as Former Administrative Warden for the Cuyahoga County Sheriff's Department, | ) | |
| Kenneth Kochevar, in his official and individual capacities as Former Director of Corrections for the Cuyahoga County Sheriff's Department, | ) | |
| Victor McArthur, in his official and individual capacities as Associate Warden of Corrections for the Cuyahoga County Sheriff's Department, | ) | |
| Eric J. Ivey, in his official and individual capacities as Associate Warden of Corrections for the Cuyahoga County Sheriff's Department, | ) | |
| Freddie Ballard, in his official and individual capacities as Corrections Officer for the Cuyahoga County Sheriff's Department, | ) | |
| Dr. Muhammad Momen, Lead Chief Clinical Officer at Northcoast Behavioral Healthcare, in his individual capacity, | ) | |

and )
)
Aurelius Hill, )
)
Defendants. )

Plaintiff Roddy Prophet brings this action and states the following for his Complaint against the Cuyahoga County Board of Commissioners ("Cuyahoga County"); Ken Mills, Regional Director of Corrections for the Cuyahoga County Sheriff's Department ("Director Mills"); Ronald Shobert, Former Administrative Warden for the Cuyahoga County Sheriff's Department ("Former Warden Shobert"); Kenneth Kochevar, Former Director of Corrections for the Cuyahoga County Sheriff's Department ("Former Director Kochevar"); Victor McArthur, Associate Warden for the Cuyahoga County Sheriff's Department ("Associate Warden McArthur"); Eric Ivey, Associate Warden for the Cuyahoga County Sheriff's Department ("Associate Warden Ivey"); Corrections Officer Freddie Ballard ("Ofc. Ballard") (collectively, the "Cuyahoga County Corrections Center or CCCC Defendants"); Dr. Muhammad Momen, Lead Chief Clinical Officer at Northcoast Behavioral Healthcare ("Dr. Momen"); and Aurelius Hill ("Mr. Hill").

## PRELIMINARY STATEMENT

1. This case is about Cuyahoga County's failure to train its administration and personnel to assess detainee security risks and assign appropriate housing, its custom and practice of allowing corrections officers to leave open jail pods unattended for long periods of time, and CCCC Defendants' willful disregard of the substantial risk that a violent, mentally unstable detainee at Cuyahoga County Corrections Center ("CCCC") posed to other detainees in an

open pod, which directly led to serious injuries to Mr. Prophet in contravention of his rights under the United States Constitution and federal law.

2. CCCC administrators, including CCCC Defendants other than Ofc. Ballard, consistent with Cuyahoga County's failure to train, placed former pretrial detainee Mr. Hill, whom they knew to be mentally unstable and to be under indictment for violent crimes, in an open detention pod at CCCC intended for nonviolent detainees, like Mr. Prophet. CCCC administrators and corrections officers, including CCCC Defendants, were aware that Mr. Hill was not taking prescribed medication and was acting irrationally and, sometimes, violently. Despite this, CCCC administrators and corrections offiers, including CCCC Defendants, continued to detain Mr. Hill in an open pod with Mr. Prophet.

3. Dr. Momen knew Mr. Hill to be mentally unstable and violent, but authorized his transfer from Northcoast to CCCC, without properly informing CCCC officials of the threat that Mr. Hill posed and the likelihood that he would act violently toward other detainees.

4. Ofc. Ballard failed to adequately supervise Mr. Hill and left the pod while he was on duty, consistent with Cuyahoga County's custom and practice of allowing corrections officers to leave open pods unattended, despite knowing that Mr. Hill was violent and mentally unstable. As a result, Mr. Hill viciously pummeled Mr. Prophet—who was asleep—in the face, causing serious injury and permanent vision problems.

5. Mr. Prophet brings this action based on claims under 42 U.S.C. § 1983 to vindicate rights protected by the Fourteenth Amendment to the United States Constitution.

6. Mr. Prophet also brings a supplemental state-law claim against Mr. Hill pursuant to Ohio Rev. Code § 307.60(A)(1) for civil damages based on Mr. Hill's criminal act of aggravated assault.

## JURISDICTION AND VENUE

7. This Court has jurisdiction over Mr. Prophet's claims for violation of his federal constitutional rights, under 28 U.S.C. § 1331 (federal-question jurisdiction) and 28 U.S.C. § 1343(a)(3) (jurisdiction over federal constitutional claims). Mr. Prophet brings this action under the Fourteenth Amendment to the United States Constitution and the Civil Rights Act, 42 U.S.C. § 1983.

8. This Court has supplemental jurisdiction over Mr. Prophet's state-law claims against Mr. Hill under 28 U.S.C. § 1367.

9. Venue lies in this district under 28 U.S.C. § 1391(b)(2) because the events giving rise to the claim occurred in this district.

## PARTIES

10. Roddy Prophet is a 37-year-old resident of the city of Maple Heights, Ohio. He was detained at CCCC, including during the period relevant to this lawsuit, but he is no longer in jail. He has no charges pending against him.

11. Defendant Cuyahoga County operates CCCC, the second-largest jail in the state of Ohio. The County is sued through the Cuyahoga County Board of Commissioners who is named in its official capacity pursuant to Ohio Rev. Code § 305.12. Cuyahoga County is a "person" under 42 U.S.C. § 1983 and at all times relevant to the Complaint acted under color of law.

12. Ken Mills became the Regional Director of Corrections for the Cuyahoga County Sheriff's Department in February of 2015 and remained the Regional Director during the period of time relevant to the Complaint. As Regional Director, Mills managed CCCC at all times relevant to the Complaint.

13. Ronald Shobert began working part-time on or around April 6, 2009, as the Administrative Warden for the Cuyahoga County Sheriff's Department. Upon information and belief, in this capacity Former Warden Shobert managed CCCC with Former Director Kochevar at least through February 2015, at all times relevant to the Complaint. After Director Mills was appointed to his current position in or around February 2015, Former Warden Shobert continued to have some management responsibilities over CCCC during a transition period, at all times relevant to the Complaint.

14. Kenneth Kochevar began working part-time on or around February 2, 2009, as the Director of Corrections for the Cuyahoga County Sheriff's Department. Upon information and belief, in this capacity Former Director Kochevar managed CCCC with Former Warden Shobert at least through February 2015, at all times relevant to the Complaint. After Director Mills was appointed to his current position in or around February 2015, Former Director Kochevar continued to have some management responsibilities over CCCC during a transition period, at all times relevant to the Complaint.

15. Victor McArthur is an Associate Warden of the Cuyahoga County Sheriff's Department. As Associate Warden, he was responsible for CCCC operations and security, specifically visitation, special programs, social services, and staff training at all times relevant to the Complaint.

16. Eric J. Ivey is also an Associate Warden of the Cuyahoga County Sheriff's Department. As Associate Warden, he was responsible for CCCC operations and security, including managing corrections officers, at all times relevant to the Complaint.

17. Freddie Ballard is a Corrections Officer for the Cuyahoga County Sheriff's Department. As a Corrections Officer, Ballard's job was to maintain a safe facility for CCCC detainees at all times relevant to the Complaint.

18. Dr. Muhammad Momen is Lead Chief Clinical Officer at Northcoast Behavioral Healthcare ("Northcoast"), a state of Ohio psychiatric hospital. Upon information and belief, as Lead Chief Clinical Officer, Dr. Momen approved the discharge of Northcoast patients at all times relevant to the Complaint.

19. Aurelius Hill, a.k.a. Aurelius Lillard, was a detainee at CCCC in Pod 7-H with Mr. Prophet. Doctors had diagnosed Mr. Hill with bipolar disorder and schizophrenia, and Mr. Hill was under indictment for numerous crimes, including aggravated robbery, intimidation of a crime victim or witness, kidnapping, and gross sexual imposition while he was incarcerated at CCCC at the time period relevant to the Complaint.

## FACTUAL BACKGROUND

### I. Aurelius Hill Is Charged with Aggravated Robbery and Is Ordered to a Mental-Health Facility, Northcoast Behavioral Healthcare, for Treatment.

20. Mr. Hill was arrested on or about April 8, 2014, and was charged with aggravated robbery and kidnapping. *Ohio v. Hill*, Cuyahoga County Court of Common Pleas, Case No. CR-14-584437-A.

21. Later that year, Mr. Hill was indicted for intimidation of a crime

victim or witness, three additional counts of kidnapping, and a number of gross sexual imposition counts. *Ohio v. Hill*, Cuyahoga County Court of Common Pleas, Case No. CR-14-586430-A.

22. Mr. Hill was held at CCCC from on or about April 11, 2014, to on or about May 29, 2014.

23. On or about May 29, 2014, Judge Michael Donnelly of the Court of Common Pleas ordered that the court psychiatric clinic evaluate Mr. Hill to determine whether Mr. Hill was mentally competent to stand trial.

24. On or about June 5, 2014, Mr. Hill refused or was unable to cooperate with a competency evaluation at the court psychiatric clinic.

25. On or about July 11, 2014, a court psychiatrist determined that Mr. Hill was mentally incompetent to stand trial.

26. On or about August 21, 2014, Judge Donnelly found Mr. Hill to be incompetent to stand trial and ordered that Mr. Hill undergo in-patient treatment at Northcoast in an attempt to restore Mr. Hill's competency to stand trial.

27. On or about August 21, 2014, Judge Donnelly further ordered that Mr. Hill cooperate with all prescribed medications while at Northcoast, including long-acting injectable anti-psychotic medication.

28. On or about August 21, 2014, Judge Donnelly ordered that Mr. Hill be remanded to CCCC until a bed were to become available at Northcoast. Sometime thereafter, Mr. Hill was transferred from CCCC to Northcoast for treatment.

## II. Dr. Momen Knows About Mr. Hill's Mental Instability and Violent Nature Yet Chooses to Discharge Mr. Hill Without Advising CCCC Officials of the Substantial Risk of His Violent Conduct Against Other Detainees and the Need to Place Mr. Hill in a Pod Designated for Detainees with Severe Mental Illnesses.

29. Upon information and belief, between on or about August 22, 2014, and February 27, 2015, Dr. Momen oversaw or knew of Mr. Hill's mental-health treatment, including efforts to restore his mental competency, his diagnoses of schizophrenia and bipolar disorder, and prescription of long-acting injectable anti-psychotic medication.

30. Upon information and belief, Dr. Momen knew of Mr. Hill's violent criminal history and had access to records indicating the charges pending against Mr. Hill.

31. Upon information and belief, Dr. Momen knew that Mr. Hill's mental state and violent propensities would likely result in severe harm to other detainees if he were housed with them.

32. Upon information and belief, on or about February 27, 2015, Dr. Momen chose to discharge Mr. Hill from Northcoast to CCCC without informing CCCC officials of the substantial risk of harm that Mr. Hill's mental state and violent propensities posed to other detainees if he were housed with them in an open pod, or the need to place Mr. Hill in a pod specifically designated for detainees with severe mental illnesses and violent tendencies.

**III. Cuyahoga County Fails to Train Its CCCC Employees on Assessing and Housing Violent, Mentally Unstable Detainees and Maintains a Custom and Practice of Corrections Officers' Leaving Open Pods Unattended.**

33. Upon information and belief, CCCC designated pods to house detainees with severe mental-health conditions who have demonstrated violence, including pods 7-A, 7-B, 7-C, and 7-D.

34. Upon information and belief, CCCC employees have access to information about detainees, including their mental-health conditions and criminal history.

35. Upon information and belief, CCCC employees choose to house violent detainees with severe mental-health conditions in open pods intended for nonviolent detainees.

36. Upon information and belief, Cuyahoga County's training policy does not adequately instruct CCCC employees to assess detainee security risks and decide where to house detainees with severe mental-health conditions who have demonstrated violence.

37. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey housed Mr. Hill, a violent detainee with schizophrenia and bipolar disorder, in Pod 7-H, an open pod intended for nonviolent detainees, as a direct result of Cuyahoga County's failing to train its employees.

38. Cuyahoga County's failure to adequately train its CCCC employees amounts to deliberate indifference toward detainee safety.

39. In an open pod where detainees are not confined to a cell or

otherwise locked down, a corrections officer's leaving his post places detainees at a substantial risk for assault by other detainees.

40. Upon information and belief, corrections officers routinely leave their posts on open pods without first securing a replacement.

41. Upon information and belief, corrections officials are aware that corrections officers frequently leave their posts without securing a replacement.

42. Upon information and belief, corrections officers who leave their posts without securing a replacement are rarely investigated or disciplined.

43. Upon information and belief, none of the actions that corrections officials have taken to correct this problem have been adequate to maximize detainee safety.

44. Upon information and belief, corrections officials, including Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey, were aware that corrections officers continue to routinely leave their posts on open pods without first securing a replacement.

45. Upon information and belief, corrections officials, including Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey, allowed this custom and practice to continue, despite the obvious and foreseeable risks posed to detainees when corrections officers leave open pods unguarded.

46. This custom and practice is not the only Cuyahoga County custom and practice or policy that leaves pods unattended at night. Cuyahoga County has a policy of "double-podding" CCCC corrections officers at night, in which one guard

is responsible for two pods of locked-down detainees.

47. Cuyahoga County's "double-podding" policy or custom and practice has led to assaults at CCCC.[1]

## IV. Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey Know About Mr. Hill's Mental Instability and Violent Nature Yet Choose to House Him in an Open, Nonviolent Pod with About 48 Other Detainees.

48. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey had access to records indicating the charges pending against any CCCC detainee.

49. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey had access to records indicating whether a detainee had been ordered to undergo mental-health treatment.

50. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate

[1] *See* Harlan Spector, *Assault of Cuyahoga Jail Guard Triggers Concerns About Staffing and Safety*, CLEVELAND.COM (Nov. 12, 2012 8:35 AM), http://www.cleveland.com/metro/index.ssf/2012/11/assault_of_cuyahoga_jail_guard.html [https://perma.cc/3WUR-QJYQ]; *see also* Harlan Spector, *Injured Guard's Lawsuit Says Cuyahoga County Jail Ignored Safety, Staffing Deficiencies*, CLEVELAND.COM (Dec. 14, 2012 11:29 AM), http://www.cleveland.com/metro/index.ssf/2012/12/injured_jail_guards_lawsuit_sa.html [https://perma.cc/EEN2-BD94]; *see also* Vince Grzegorek, *Assault on Officer Shows Safety Risks of 'Double Podding' for Guards and Detainees at Cuyahoga County Jail*, CLEVELAND SCENE MAG. (Dec. 28, 2016 12:16 PM), http://www.clevescene.com/scene-and-heard/archives/2016/12/28/assault-on-officer-shows-safety-risks-of-double-podding-for-guards-and-inmates-at-cuyahoga-county-jail [https://perma.cc/E4YA-7CSZ].

Warden Ivey were aware that Mr. Hill had been charged with violent physical crimes, including aggravated robbery, kidnapping, and gross sexual imposition.

51. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey were also aware that Mr. Hill had been found incompetent to stand trial and had been ordered by a judge to undergo mental-health treatment, including antipsychotic medication, to restore competency.

52. Upon information and belief, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey were also aware that Mr. Hill had been diagnosed with schizophrenia and bipolar disorder.

53. Upon information and belief, CCCC has pods specifically designated to house detainees with severe mental illnesses, including pods 7-A, 7-B, 7-C, and 7-D.

54. Upon information and belief, on or about February 27, 2015, Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey placed Mr. Hill in Pod 7-H, an open pod intended for only nonviolent detainees, despite the substantial risk that his mental state and violent propensities would likely result in severe harm to other detainees.

55. Between on or about February 27, 2015, and on or about May 1, 2015, medical personnel brought prescription medicine to Pod 7-H three times a day, including medication for Mr. Hill.

56. Between on or about February 27, 2015, and on or about May 1, 2015, Mr. Hill refused to take any medications brought by the medical staff.

57. Between on or about February 27, 2015, and on or about May 1, 2015, detainees in Pod 7-H called Mr. Hill "Crazy Butch."

58. Between on or about February 27, 2015, and on or about May 1, 2015, corrections officers, including Ofc. Ballard, observed Mr. Hill refusing to take medications from CCCC medical personnel two times per shift.

59. Between on or about February 27, 2015, and on or about May 1, 2015, Mr. Hill frequently became very agitated when he was brought back to Pod 7-H from a visitation. On multiple occasions during that time period, Mr. Hill punched the bathroom wall and violently tore his mattress off of his bunk and threw it.

60. Between on or about February 27, 2015, and on or about May 1, 2015, corrections officers, including Ofc. Ballard, observed Mr. Hill's agitation and uncontrolled physical outbursts after visitations.

## V. Ofc. Ballard Leaves His Post, and Mr. Hill Pummels Sleeping Mr. Prophet in the Face.

61. CCCC corrections officers receive a report at the start of every shift that lists the pod residents and summarizes detainee information such as mental-health information, instances of violence, and whether the detainee is involved in a high-profile case.

62. Upon information and belief, Ofc. Ballard knew that Mr. Hill was a mentally unstable detainee who was not taking his medication and had a tendency to act violently.

63. Ofc. Ballard worked the night of April 30–May 1, 2015.

64. On the night of April 30, 2015, Ofc. Ballard was assigned to guard Pod 7-H.

65. In the early morning hours of May 1, 2015, Ofc. Ballard left his post without first securing a replacement, consistent with CCCC custom, therefore leaving Pod 7-H without a guard inside the door.

66. In the early morning hours of May 1, 2015, Ofc. Ballard was absent from his post for seven to fifteen minutes, during which time there was no guard present inside Pod 7-H.

67. While Ofc. Ballard was absent from his post, Mr. Hill got off of his bunk and walked over to Mr. Prophet's bunk, where Mr. Prophet was asleep.

68. While Ofc. Ballard was absent from his post, Mr. Hill viciously and repeatedly punched Mr. Prophet in the face.

69. The assault on Mr. Prophet was the direct and foreseeable result of Ofc. Ballard's actions, Cuyahoga County's custom and practice and failure to train, and CCCC Defendants' and Dr. Momen's deliberate indifference to the consequences of placing Mr. Hill in an open, non-violent pod and Mr. Prophet's safety.

## VI. Mr. Hill Pleads Guilty to Aggravated Assault.

70. Associate Warden McArthur requested a hearing to determine whether and how to discipline Mr. Hill for attacking Mr. Prophet.

71. On or about Tuesday, May 5, 2015, CCCC's disciplinary committee held a disciplinary hearing for Mr. Hill.

72. The disciplinary committee found Mr. Hill guilty of all disciplinary charges and recommended disciplinary isolation of 60 days.

73. On or about May 9, 2015, Mr. Hill pleaded guilty to aggravated

assault for attacking Mr. Prophet. *Ohio v. Hill*, Cuyahoga County Court of Common Pleas, No. CR-15-597084-A.

## VII. Mr. Prophet Suffers Severe Facial Injuries and Continues to Experience Vision Problems.

74. Mr. Hill's assault left Mr. Prophet with a left orbital floor blowout. The orbital of his left eye was broken by three centimeters.

75. Mr. Hill's assault also lacerated Mr. Prophet's nose and mouth, which required Mr. Prophet to get at least eight stitches.

76. Mr. Prophet had to undergo surgery to repair his left eye orbital by inserting a metal plate. The surgeons reached his eye by going through his nose.

77. The surgery left Mr. Prophet in an enormous amount of pain for a month and a half, during which time he suffered from debilitating headaches.

78. Mr. Prophet continues to suffer from regular headaches, pain around his eye socket, facial numbness, and occasional hearing and taste problems as a result of Mr. Hill's assault.

79. Mr. Prophet also continues to suffer from emotional distress and a reduction in vision in his left eye as a result of Mr. Hill's assault.

## CLAIMS FOR VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

### I. Against Cuyahoga County

80. Mr. Prophet repeats and realleges the preceding paragraphs as if fully set forth herein.

81. Cuyahoga County violated Mr. Prophet's right to be free from cruel and unusual punishment, as guaranteed by the Eighth Amendment to the United States Constitution, and as extended to pretrial detainees through the Fourteenth Amendment to the United States Constitution, by failing to train its employees on how to assess the safety risks detainees pose and how to decide where to house them and through its custom and practice of allowing corrections officers to leave their posts.

82. Cuyahoga County failed to adequately train corrections officials, including Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey, which led to them place Mr. Hill in the open pod intended for nonviolent detainees with deliberate indifference to the safety of the other detainees, including Mr. Prophet, causing him to be assaulted.

83. Cuyahoga County, through its agents, also has maintained a custom and practice at CCCC of allowing corrections officers to leave their posts on open pods without first securing a replacement, thereby leaving detainees unguarded.

84. Cuyahoga County, through its agents, was aware of the substantial risks posed to detainees by other detainees in unguarded pods and was aware that individual CCCC officials acted with deliberate indifference to those risks, thereby violating the detainees' constitutional rights. By allowing this custom and practice to continue, Cuyahoga County exhibited reckless and deliberate indifference toward its wards, including Mr. Prophet.

85. Upon information and belief, Ofc. Ballard's deliberate indifference to the known risk that Mr. Hill posed to other detainees, including Mr. Prophet, shown by Ofc. Ballard's decision to leave Pod 7-H without first securing a replacement in the early morning hours of May 1, 2015, and his continued absence from the pod for seven to fifteen minutes, was a direct result of that custom and practice.

86. Mr. Prophet suffered and will continue to suffer damages in the future as a direct and proximate result of Cuyahoga County's failure to train and custom and practice.

## II. Against Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey

87. Mr. Prophet repeats and realleges the preceding paragraphs as if fully set forth herein.

88. Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey violated Mr. Prophet's right to be free from cruel and unusual punishment, as guaranteed by the Eighth Amendment to the United States Constitution, and as extended to pretrial

detainees through the Fourteenth Amendment to the United States Constitution, when they chose to place Mr. Hill in the nonviolent, open pod with Mr. Prophet.

89. Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey violated Mr. Prophet's Fourteenth Amendment rights because they:

a. knew Mr. Hill was charged with violent crimes;

b. knew about Mr. Hill's mental instability;

c. knew that Mr. Hill, as a violent, mentally unstable detainee, posed a substantial danger to other detainees, including Mr. Prophet; and

d. decided to house Mr. Hill in a large open pod with about 48 other detainees, including Mr. Prophet, leading to Mr. Hill's foreseeable assault of Mr. Prophet.

90. Mr. Prophet suffered and will continue to suffer damages in the future as a direct and proximate result of Defendants Director Mills, Former Warden Shobert, Former Director Kochevar, Associate Warden McArthur, and Associate Warden Ivey's decisions to house Mr. Hill in the nonviolent, open pod with Mr. Prophet.

## III. Against Officer Ballard

91. Mr. Prophet repeats and realleges the preceding paragraphs as if fully set forth herein.

92. Ofc. Ballard violated Mr. Prophet's right to be free from cruel and unusual punishment, as guaranteed by the Eighth Amendment to the United States Constitution, and as extended to pretrial detainees through the Fourteenth Amendment to the United States Constitution, when he knew of the substantial risk of harm posed by Mr. Hill's mental instability and violent nature and

deliberately and recklessly disregarded that risk by leaving his post, thereby leaving Mr. Prophet and the other detainees unguarded.

93. Ofc. Ballard acted recklessly and with deliberate indifference in violation of Mr. Prophet's Fourteenth Amendment rights because he:

a. knew about Mr. Hill's mental instability and violent nature;

b. knew that Mr. Hill was not taking his medication;

c. knew that Mr. Hill had displayed violent tendencies recently; and

d. nonetheless chose to leave his post.

94. Mr. Prophet suffered and will continue to suffer damages in the future as a direct and proximate result of Ofc. Ballard's decision to leave his post.

## IV. Against Dr. Momen

95. Mr. Prophet repeats and realleges the preceding paragraphs as if fully set forth herein.

96. Dr. Momen violated Mr. Prophet's right to be free from cruel and unusual punishment, as guaranteed by the Eighth Amendment to the United States Constitution, and as extended to pretrial detainees through the Fourteenth Amendment to the United States Constitution, when he approved of Mr. Hill's discharge from Northcoast Behavioral Healthcare without adequately warning CCCC of the highly foreseeable and substantial risk of harm that Mr. Hill posed to other detainees, including Mr. Prophet.

97. Mr. Prophet suffered and will continue to suffer damages in the future as a direct and proximate result of Dr. Momen's deliberate indifference to the substantial risk of harm Mr. Hill posed to detainees at CCCC, including

Mr. Prophet.

## **CLAIMS FOR VIOLATION OF STATE LAW**

98. Mr. Prophet repeats and realleges the preceding paragraphs as if fully set forth herein.

99. Ohio Rev. Code § 2307.60(A)(1) "creates a civil cause of action for damages resulting from any criminal act." *Jacobson v. Kaforey*, No. 2015-1340, 2016 WL 7449368, at ¶ 12 (Ohio Sup. Ct. Dec. 28, 2016).

100. On May 9, 2015, Mr. Hill pleaded guilty to aggravated assault for attacking Mr. Prophet in violation of Ohio criminal statute Ohio Rev. Code § 2903.12(A)(1).

101. Mr. Prophet has suffered and will continue to suffer damages in the future as a result of Mr. Hill's criminal act.

## DEMAND FOR JURY TRIAL

102. Mr. Prophet demands a trial by jury.

## PRAYER FOR RELIEF

WHEREFORE, Mr. Prophet requests judgment against the Defendants as follows:

a. Compensatory and consequential damages in an amount to be determined at trial;

b. Punitive damages in an amount to be determined at trial;

c. Attorney fees and costs associated with this action pursuant to 42 U.S.C. § 1988; and

d. Such other relief as this Court deems just and proper.

Respectfully submitted,

/s/ Kevin Vogel

KEVIN VOGEL
Legal Intern (pending permission to appear under Local R. 83.6)

/s/ Yitao Li

YITAO LI
Legal Intern (pending permission to appear under Local R. 83.6)

/s/ Melissa Barrett

MELISSA BARRETT
Legal Intern (pending permission to appear under Local R. 83.6)

/s/ Avidan Y. Cover

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